

5 November 1979

MEMORANDUM FOR THE RECORD

Staff Meeting Minutes of 5 November 1979

The Director chaired the meeting; he noted he would leave at 0930 hours to meet with Deputy Secretary of Defense Graham Claytor re APEX and then attend an SCC meeting on Iran which was announced only this morning.

25X1

The Director solicited advice and any additional information on the Iranian student seige of the U.S. Embassy in Tehran.

25X1

A brief discussion followed on ways U.S. policy levels might deal with the seige situation. Mr. Carlucci noted, for example, the State Department should be moving quickly with demarches and all other means to gain the support of world opinion, and the entire diplomatic corps should be taking issue re sovereign rights abroad.

25X1

The Director reviewed other significant items for this week:

- PRC(I) tomorrow on NFIP; he said he will ask Lloyd Cutler to attend. (Later in the meeting [] said Cutler's attendance would be helpful, and we should provide sufficient details beforehand to Cutler's able assistant.) 25X1
- Reflecting on last Friday's NFIB meeting, the Director noted his frustration with military representatives in the rationalization of their priorities within the NFIP. [] noted, however, that [] DIA came closest in verbalizing his views on priorities, e.g., placing [] The Director said he will announce his NFIP tentative decisions tomorrow. 25X1
25X1
25X1

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- The Director said he will visit FTD on Wednesday and solicited questions/suggestions he might take with him. He said he will be dining on Wednesday evening with Dr. Ruben Mettler of TRW and other business leaders and solicited [] Dirks noted []
[]
25X1
25X1
- The Director said Clarke's proposed program looks good for Lloyd Cutler's visit to Headquarters this week. [] 25X1
- Noting his meeting later this week with the Military and Economic Advisory Panel, the Director asked Clarke to consider whether or not we should raise the issue of a "Cuba Post-Mortem" with the Panel. [] 25X1
25X1
- The Director said he will meet Friday with the Joint Chiefs of Staff re update of [] He said [] will deliver the briefing, but asked [] to provide cost data on options. The Director asked for any other items of significance he might bring to the attention of the JCS and noted his interest in continuing these quarterly meetings. [] 25X1
25X1
- []
- The Director highlighted an "acrimonious" discussion held at last Friday's NFIB meeting re the Army's INSCOM cable (see Staff Meeting Minutes of 2 November). Clarke agreed with the Director's suggestions that work begin on development of a community assessment and a way be found to incorporate Army's view--re North Korea's readiness to attack South Korea. [] 25X1
- The Director noted a "good" paper he received from [] over the weekend re worldwide nuclear detection. He said the paper should be simplified with charts, etc., for use with JCS and in his Presidential Briefing on 14 November. [] 25X1
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- Noting the recent SFRC vote approving Senator Church's SALT II "understanding" pertaining to the Cuba Brigade issue, the Director advised Clarke we should carefully examine what indicators to look for signaling any shift in Soviet troop status in Cuba--specifically, shift to a combat role and becoming a threat to any country in the Caribbean or elsewhere in the Western Hemisphere.

25X1

- The Director noted continuing interest in what is happening in South Korea following President Pak's assassination and also asked that we keep sharp focus on trends in Lebanon.

25X1

Clarke passed the Director and Mr. Carlucci copies of an IIM (Recent Developments in Soviet MRBM and IRBM Forces) and said he has already sent a copy to David Aaron who leaves tonight for Brussels. Clarke noted also Navy concerns re an IIM underway (Readiness of Soviet Naval Forces): the Director said he would like to know more about this before he meets with the JCS on Friday.

25X1

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[] commented briefly on Representative Holtzman's upcoming visit to Phnom Penh and that we are prepared to provide a briefing if asked. []

[]

officer did not join the Senior Intelligence Service because he is retiring, and two applied but were not eligible. []

25X1

25X1

(The Director left the meeting.)

McMahon reported briefly on the following:

- Chairman of the House Foreign Affairs Committee, Clement Zablocki (D., Wis.) is in Seoul and says he will probably be forced to conduct hearings when he returns re President Pak's assassination.

25X1

- ZAPU leader Nkomo who feels London negotiations re Rhodesia are not going well is attempting, through Guyana's Ambassador, to seek Fidel Castro's assistance (as leader of the NAM) to serve as mediator.

25X1

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-- A report that Fidel Castro's son has completed his education in Moscow and has contacted his mother in Spain saying he does not want to return to Cuba. [REDACTED]

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Mr. Carlucci asked [REDACTED] about Congressman Les Aspin's most recent press release. [REDACTED] explained this stemmed from Maurice Ernst's testimony and that an appeal has been made to Tom Latimer re Representative Aspin's maverick behavior. Mr. Carlucci suggested Latimer be made to understand that such press releases may preclude testimony by CIA in the future and this may strengthen the Committee's hand in dealing with Representative Aspin's disregard for Community rules. [REDACTED]

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Attachment

SECRET

WASHINGTON POST (4 Nov 79)

How a Legal Ploy Backfired

Cocaine claim against Jordan hurt Studio 54 owners

By Steven Brill

FOR WEEKS, the legal maneuvering behind the Studio 54/Hamilton Jordan/cocaine headlines has been the talk of the bar. What were Roy Cohn, who is defending Studio 54 co-owner Steven Rubell on tax fraud charges, and Mitchell Rogovin of Washington, who is defending Rubell's partner, Ian Schrager, trying to do?

Behind the answers is a story of bitter infighting among counsel and a mistake by Rogovin that resulted in the discotheque owners' being forced on Friday to accept a much stiffer plea bargain than they might otherwise have negotiated.

"No, I'm not thrilled at what's happened," Rogovin says, puffing on a pipe during a breakfast interview. "It's clear that it hasn't worked out. But the leak to the [New York] Times from Cohn blew the whole thing out of the water."

In hindsight it seems ridiculous for anyone to have dreamed that it could have "worked out." But Rogovin, a former special counsel to the CIA, brought a Cold War spook's mentality to the plea-bargaining table. Last spring, he explains, he had a client "in the intelligence community" who was about to be indicted on "several major counts."

See BARGAIN, Page C4

Steven Brill is editor of The American Lawyer, from which this article is reprinted with permission.



Mitchell Rogovin

BARGAIN, From Page C1

... Well, it turned out he had information about some serious wrongdoing — breaches of security — in the intelligence community. The kind of thing that the government wouldn't want to prosecute but would want to take care of very quietly. We offered that information to the government, and in return . . . they very quietly decided not to indict.

"Here [in the Studio 54 case], we had information that wasn't necessarily prosecutable — that the chief of staff to the president was using cocaine in public. But I can tell you from my CIA background that it's the kind of thing the government would want to know, because the Russians might try to blackmail Jordan if they knew."

What Rogovin hoped, therefore, was that he'd go to the government "with this very important information," he says, "and I do believe it's very important, and they'd accept it and quietly get Jordan to resign and in return allow my client to plead to one felony count. It all could have been done secretly and done to the everlasting benefit of the United States."

In short, Rogovin expected to strike a major plea bargain for the owners of the country's most celebrated night spot (after a highly publicized raid and a 12-count indictment) and get the president's chief of staff to resign suddenly — without the substance of the deal ever being made public. "Graymail at the highest levels of government," as one Rogovin friend puts it.

"And it would have worked but for the press leaks," Rogovin insists. "Next time, I'd remember to ask all co-counsel and others involved to keep quiet."

"Pure fiction"

Roy Cohn denies being the source of the Aug. 25 New York Times story that said lawyers for Studio 54 defendants had offered information on Jordan's alleged drug use in return for leniency. "Pure fiction," he says. However, six people in positions to know, including four at the Times, say Cohn leaked the story. First, the sources say, Cohn called Times columnist William Safire, a close friend. Safire quickly prepared a memo of his conversation with Cohn for other Times reporters and editors. But when Cohn saw no story in the paper after two days, he called Executive Editor A. M. Rosenthal.

Actually, the leak to the Times, whether from Cohn or not, wasn't what torpedoed Rogovin's plan. Interviews with most of those involved in the case suggest that Rogovin has seized on Cohn and the leaks as scapegoats for failure of a scheme that never had a chance, and that he's now covering his tracks.

Even before the Studio 54 indictment was filed on June 23, lawyers for the defense had been talking with the prosecution about some kind of plea bargain. It seemed to be a good idea, given that a third partner in Studio 54, Jack Dushey, had already become a key government witness; that two different sets of books had been found during a raid on the disco in December 1978; and that evidence of large-scale skimming from 54's nightly cash take had been assembled. The problem was that the prosecutors, led by Robert Fiske Jr., the U.S. attorney for the Southern District of New York, and assistants Alan Kaufman and Peter Sudler, would strike a plea bargain only in return for solid information about where all the skimmed money had gone. (They suspected that Studio 54 might be an organized crime operation.) They also wanted to know about allegations that thousands of dollars' worth of cocaine made its way to the 54 basement every night for use by the celebrities who congregated there.

Of the lawyers for the defense, Cohn was the most adamant about not providing any of this information. This refusal, combined with friction between the two egos involved, became the cause of Cohn's split with Rogovin — a split so bitter that, according to Rogovin, the two haven't talked (except between New York and Washington by telephone during a live TV show) since July.

There are three possible explanations for Cohn's hard-line stance. First, there are rumors that Cohn was trying to protect organized-crime figures who would be burned by that kind of bargain. Second, there's Cohn's public explanation that he likes doing trials, not plea bargaining. The third possibility (which is not necessarily exclusive of the second) is that the defendants were innocent and therefore had no information to provide.

Dangling the bait

In any case, by all accounts — except one later offered by Rogovin — no bargain was in the offing as of mid-August. A source close to Schrager says that, during the first two weeks of August, Rogovin repeatedly asked Schrager whether any government people had ever been to Studio 54, and whether they had used drugs there. Schrager said he didn't want to inform on his patrons. Rogovin pushed him.

On Aug. 17, at a meeting with prosecutor Sudler, Rogovin announced he had information about a "very high government official" — something that would make the prosecutors want to drop the entire indictment. He did not elaborate, and they arranged another meeting for Sunday, Aug. 19. It was only after this Friday meeting that Rogovin told New York defense lawyer Robert Kasanof, who along with Cohn was representing Rubell, what he had dangled in front of the prosecutors. Cohn was out of the country that day, not scheduled to return until Monday.

Rogovin now insists that the prosecutors first told him they'd like information on who used cocaine at Studio 54. The prosecutors deny this, and a source at Rogovin's own law office says that Rogovin discussed bringing up the subject with the government.

Kasanof, who has declined all public discussion of the case, accompanied Rogovin to the Sunday meeting with the prosecutors. There Rogovin stressed the national security implications of the information, but he was told that the prosecution wasn't interested in bargaining away a multi-million-dollar tax fraud case, with possible organized crime implications, for information about someone's — anyone's — sniffing cocaine. Rogovin insisted on seeing Fiske and telling him who the high government official was. That meeting was set for Wednesday.

"You know how Bob Fiske is," Rogovin says. "He's like stone. Totally impassive. Here we were sitting in his office, and I give him the name of the high government official who we can show used cocaine. And he acted like he wasn't interested. I said, 'It's Hamilton Jordan,' and he and his guys just sat there. But I think they knew how important it was."

Rogovin couldn't have been more wrong. The overriding reason his plan backfired is that he miscalculated the government's reaction to the information about Jordan. Fiske and his assistants appreciated that the allegations were important in some context.

Yes, they'd send it to Washington for the attorney general to handle. But swap it for a plea in this celebrated case? "Not on your life," says one prosecutor. In fact, their reaction was just the opposite. The prosecutors reportedly were angered that Rogovin was trying to substitute the "cheap rumor," as one calls it, for the information that they really wanted. "So our position actually hardened," one prosecutor says. Nor, Rogovin says, did he even know about the Special Prosecutor's Act — under which the attorney general would appoint a special prosecutor to investigate the Jordan case, meaning that Fiske probably couldn't bargain for the information.

Rogovin, previously known for his successful dealings with reporters, also miscalculated what the press would do — first, in assuming that a deal involving Jordan's forced resignation would possibly go unreported, and second, in assuming that the press, once a leak was sprung, would help his cause by clamoring for a bargain in return for nailing Jordan. The press has been generally hard on Jordan, even unfair, but it has also shown hostility to those leaking stories about his alleged off-hour activities.

Time for a press leak

Enter Roy Cohn. When he returned to New York during the week of Aug. 20, it was Rubell, the Studio 54 co-owner, who reportedly told him of the possible bargaining chip that Rogovin had thrown on the table. (Rogovin didn't tell Cohn, of course, because he and Cohn don't talk; Kasanof or the clients are their go-betweens.)

Sources familiar with Cohn's thinking say he regarded Rogovin's gambit as a no-lose situation — at least for himself. If it succeeded, it was a way to strike a plea bargain without giving up the information the government had previously demanded — and that Cohn, these sources say, wanted to protect. If it failed, then he'd get his trial as planned.

A strategic press leak was now in order. At best, it would pressure the government quickly into acting on Rogovin's bargain. At worst — and Cohn reportedly thought this the more likely outcome — a leak would not only fail as a bargaining chip, but make the prosecutors angry enough to insist on getting the information that Cohn did not want to provide. Yet it would reinforce Cohn's image as a tough lawyer by putting him at the center of a fight against the president's chief of staff.

To back his original assessment — that Fiske and his people thought his Jordan information was "important" — Rogovin still asserts that, "until the thing was leaked, we were very close. Fiske's people were very excited about the information. We were told it was extraordinarily cooperative, and that we'd be credited for it. And," he adds, without providing any details, "I can tell you that we had agreed on supplying them some other information, too. This stuff on Jordan, which they liked, was only the final element. It could have worked. But then the Times story blew it all up."

Asked about Rogovin's account, given in an interview that was explicitly on the record, Fiske, obviously irritated, says, "It's against the Code of Professional Responsibility to discuss plea negotiations prior to a trial. But I will tell you that Rogovin's information on Hamilton Jordan had no impact on us at all. Yes, we sent it to Washington. (Rogovin and Kasanof met with Acting Deputy Attorney General Charles Ruff on Thursday, Aug. 23, the day after the Fiske meeting, after which Attorney General Benjamin Civiletti launched his preliminary investigation into the Jordan charges.) But that was for possible action under the Special Prosecutor's Act. The two have nothing to do with each other. As far as the Studio 54 tax case is concerned, we never considered it to be of any importance to our case. It put us no closer to a negotiated plea. . . ."

In short, Rogovin's strategy has unraveled, damaging his reputation

in the process. He had previously been seen around Washington as a next-generation, Clark Clifford-type mover and shaker. He has a lucrative contract with the Nuclear Regulatory Commission to investigate the Three Mile Island accident; he's been an assistant attorney general in charge of the Tax Division, and a key outside lawyer for Common

Cause and other public interest groups; and his firm — an Arnold & Porter spin-off called Rogovin, Stern & Hugel — is one of this city's highly regarded younger firms. But with each day he's appeared in the press renewing or defending the cocaine-smoking rumors, his reputation has slipped a notch.

As for the discotheque, a key official of the New York State Liquor Authority said several weeks ago that, "when the dust clears and the criminal case is over," Studio 54 is "just about certain" to lose its liquor license because of the owners' admissions that illegal drug use was tolerated there. Nor is the disco likely to retain its popularity now that management has informed on a patron.

Then there are the two defendants, on whose behalf all the Jordan rumor-mongering and press leaks were presumably undertaken. Under usual plea bargaining terms, first offenders in tax cases such as this one are allowed by the government to plead guilty to one felony count of tax evasion, for which a five-year prison sentence would be possible but would most likely be suspended. Rogovin's ploy changed all that, as all the publicity made prosecutors more leery of a negotiated plea than they normally would be.

"If we took a plea," one Justice Department source says, "everyone would say we did it to keep them quiet about more information on Jordan or other people. I've already heard a rumor that we're trying to protect one of the president's children." Therefore the Justice Department had to bargain harder to protect its own reputation. The "bargain" the prosecutors insisted on, and won on Friday, was a plea of guilty by both Rubell and Schrager to two counts each of tax evasion, plus an admission by the two that they had lied to authorities about their tax situation after the Internal Revenue Service had begun its investigation. The judge could now sentence them each to 10 years in prison and a \$20,000 fine.

"Look, I undertook to represent a guy," Rogovin says. "And I truly believed at the time that this was an appropriate strategy — ethical, legal, proper. Well, it's not working out the way I envisioned it. So I am very concerned about what this does to my client."